

Quid Novi



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DES: What you Don't Know Will Hurt You

by Marcel Banasinski

Diethylstilbestrol (DES) is a synthetic female hormone (estrogen) which was hailed as a wonder drug when it was first marketed in 1941. Between 1941 and 1971, it was administered to many pregnant women to prevent miscarriages. In 1971 clinical tests indicated that DES caused a rare cancer of the vagina. DES was subsequently banned, but its malignant legacy persists today.

DES Action is a national non-profit organization devoted to the concerns of those exposed to DES. It provides DES information booklets, physician referrals and peer counselling. On October 18 Harriet Simand, the founder of DES Action and a DES Daughter, spoke on the physiological, social, and legal consequences of DES.

DES was given to as many as 400,000 pregnant women in Canada between 1941 and 1971, as compared with 3-6 million women in the United States. The children of DES mothers have exhibited a variety of genital deformities, not all of them dangerous. However, some DES daughters have developed a rare cancer of the vagina or cervix. This rare cancer has an occurrence of 1 in 5000 but can be treated if found early. There is also a 50% chance

that DES daughters will have miscarriages.

DES sons run the risk of developing cancer of the testicles, or they may experience low sperm counts leading to sterility.

A study has suggested that DES mothers are prone to breast cancer, and are therefore encouraged to have regular breast examinations.

The catastrophe of the DES scheme can be attributed to the negligence of the pharmaceutical companies in failing to thoroughly test DES before marketing it and to the lackadaisical nature of the government in regulating the manufacture and sale of DES. Even after the effect of DES had been proven in 1971, the government did not recognize the plight of the DES

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Regulation and Risk

by Arif Curimjee

"Canadian Legal Training and the Rise of Regulation in the 1920's and 30's" was the topic chosen by Forum National's guest speaker, Prof. R.C.B. Risk of the University of Toronto Law Faculty and one of the country's foremost legal historians.

Professor Risk chose to approach his subject through the life and writings of John Willis, who taught law at Dalhousie. Willis' work has remained relatively unknown since its first appearance in the 1930's, though recently it is being acknowledged as an important and original source of legal commentary.

By the end of the 19th century, Professor Risk argued, a way of thinking

about the common law had coalesced in England. The law was viewed as a set of general principles which could be applied indifferently and rationally by the courts -- the rules applied would then serve as precedents for future judgments.

This formalism, however, inevitably caused a rift in the minds of lawyers on how to think about the law. On the one side rose this grandiose formal structure, an "organ in the heavens"; on the other side was the law "in the trenches" squirming with social, economic and political implications. It was this tension between formalism and the significance of the societal context, according to Professor Risk, which Willis attempted to address.

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Open House Coming Up

**McGill University
Faculty of Law
"Open House 1984"
Saturday, November 3
13h00 - 16h30**

Faculty students may recall that last year the Faculty of Law hosted an open house for Montreal Island CEGEP and university students. These students were invited to come to the Faculty one Saturday afternoon to meet with professors, students and recent graduates of the Faculty and discuss the study of law at McGill. This event was a popular success and the Faculty of law Admissions Committee is organizing a similar event for this year.

Language Rights Conference

by Gary Nachshen

On Monday, November 5, Forum National will present its third annual conference at the Faculty of Law in the Moot Court. After conferences in 1982 on the Charter of Rights and Freedoms and in 1983 on Censorship and Pornography, this year's topic is "Minority Language Rights in Canada".

The conference will be divided into two sessions. The morning session, entitled "Minority Language Rights Today: An Evaluation", will consider the effects of legislation, the role of the courts, the role of the schools, and professional language training. It will run from 10:00 a.m. to 12:45 p.m. The afternoon session will start at 1:45 p.m. and

The 1984 Open House will take place on Saturday, November 3, 1984 from 13h00 to 16h30. The co-operation and participation of students and faculty alike is a necessary ingredient to a successful Open House. Student volunteers are needed to act as hosts in the Common Room and throughout the Law School and to staff student information desks which will show off the activities of the various law student organizations. Would students interested in helping out in this way please contact Todd Sloan. In addition, would all of you make an effort to publicize this event among those of your friends and acquaintances who are thinking about going to law school.

**David Stevens
for the Admissions Committee**

conclude at 5:00 p.m. Entitled "Minority Language Rights Tomorrow: Prospects and Possibilities", this second session will cover the impact of the federal and provincial Charters, the role of activists, and the conflict between bilingualism and multiculturalism.

Six prominent panelists have been lined up for the conference. The opening speaker will be Justice Jules Deschênes, former Chief Justice of Quebec and author of the landmark Protestant School Boards decision which struck down parts of Bill 101 on the basis of the Charter. Next will be D'Iberville Fortier, the new Official Language Commissioner of Canada and the first Francophone to hold that post. The third and fourth par-

ticipants stand on the two sides of the language debate in Quebec: Minister of Linguistic Affairs, Gérald Godin and Alliance, Quebec Vice President Michael Goldbloom. The final two speakers will address the issue from opposite sides in the Ontario context: Attorney-General Roy McMurtry and former Liberal MPP Albert Roy.

This year's conference has been designed to maximize discussion and debate. One hour has been set aside in each session for questions from the audience. (Students will be admitted free, others will be charged \$3.) The moderators, Professors Irwin Cotler and Suzanne Birks, will encourage the panelists to engage each other directly on the issues. Here will also be a free reception following the afternoon session where members of the audience can talk privately with the panelists.

Exam Numbers

All Law students must pick up their exam number at the S.A.O. as soon as possible.

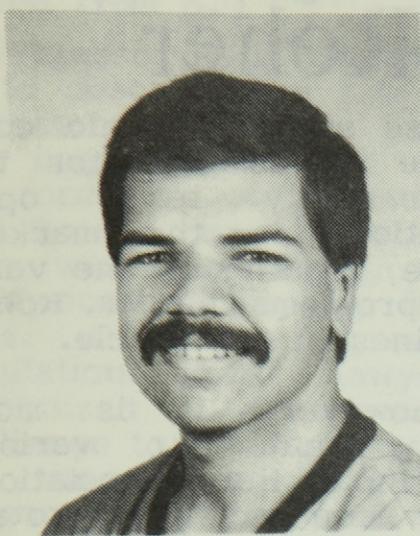
Exam numbers are a must for the writing of examinations.

DONUT EATING

On Wednesday, October 24th, Phi Delta Phi will be holding its annual Donut-Eating Contest in the Moot Court at 12:30 p.m.

Several "tough customers" are featured in a battle to the finish, including: Ian Bandeen, Gabriel Boutros, Alexander Daoussis, Rodney Garson, Jill Hugessen, Mitchell Marcus and Ron Sklar! Donuts will be sold to spectators. All proceeds go to the Quebec Heart Foundation.

Grey Doorknob, Brass Handle



by Rick Goossen

Given the morbid state of Canada's economy, it is becoming increasingly challenging for graduating law students to find employment. Hence, having a "connection" is becoming more important in helping one get a c.v. read rather than "filed".

Lawyers must consider a wide array of fields in which they can utilize their legal skills, and this same flexibility is also crucial when seeking connections.

While my approach may have been somewhat unorthodox, I believe it leads to a broader base of connections and a long term renewable source of income.

For three summers I worked at a wire-cable factory in Vancouver called Wright's Canadian Ropes Ltd. During the summer I slipped into the subculture of the B.C. blue-collar worker. While definitely a different experience from law school, it was nevertheless educational.

As I immersed myself in the grease and slime of the factory, and partook of the idle banter over the roar of the machinery, I was treated like a regular -- like a piece of shit! Once

my co-workers discovered I was studying law this simply confirmed their view.

Over the course of my last summer at the factory, I came to realize that here was a future clientele of almost 100 workers. On numerous occasions one of the "good ole country boys" would get into trouble and approach me for advice. The value of my advice bore a direct correlation to the quality of the contents of their Spiderman lunchboxes.

My brothers (that's union talk) at the factory wanted someone they could trust (As a good "lawyer" I successfully fooled them). They wanted someone they could relate to. This was easier when their source of legal information was wearing coveralls (complete with name badge), greasy gloves, and blackened work boots.

I think my union brothers would provide a solid base for a general practice. The breadth of their exploits and the resulting variety of legal problems was truly amazing.

Every Monday morning, there would be a number of impaired driving charges to deal with. I received some sage advice from one of my co-workers on how to set up a defence. He said,

"Argue the Charter."

"Tell me, son," I ventured, "What happened?"

"I went to the 'Blue Hole', got hammered, was driving home and got pulled over", he recalled.

"So you were driving while impaired?" I queried.

He beamed.

"Of course I was, but my lawyer got me off".

"The Charter, no doubt!" I said, knowing the inevitable was coming.

"Yeah, man," he enthused, "the Charter's great!"

Well, I thought, they said the Charter was going to make a difference -- I guess they were right.

There were also a number of assault and battery charges to be dealt with.

About eight Hell's Angels worked at the factory; this local chapter was called "The Wright's Riders". They were really decent fellows -- just let them polish the chrome on their Harleys and they would be content.

Problems arose when the Wright's Riders got together for a drink (or twenty) down at the local pub. They had a habit of annoying the other patrons -- this might have stemmed from the fact that they liked to park their Harleys inside the bar. Anyone who took exception found himself on a one-way flight to the parking lot.

There was the married worker who was charged with statutory rape. How was he to know she was only nine years old?!

There would also be a role for constitutional law -- in particular, the fundamental freedom of "thought, belief, opinion and expression." There were a few members of the Ku Klux Klan at the factory. While these individuals were definitely in-

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LETTERS

Response to Roher

I would like to commend Eric Roher for his well-written article, "Too Many Lawyers?". It dealt with a matter of great importance to all us "lawyers-to-be". However, I am not in total agreement with all of Mr. Roher's points.

Before entering into any discussion of whether there are too many lawyers practising today and whether we should limit access to the profession, we should not forget that the primary consequence of an excess of lawyers would most probably be lowering of legal costs for the general public. Thus we must recognize that the self-serving reason for the sudden outburst of dialogue on this subject within the legal profession is the maintenance of a respectable income for Canada's lawyers. Par for the course; our profession's gain is the public's loss.

But let us assume, as the various Bar Associations do, that there are too many lawyers out there, somewhere. And then let us assume that somebody is going to do something about this problem. Exactly what form should this solution take?

Well, Eric Roher submits that, "adopting the proposal to restrict the number of first year entrants to law faculties across Canada would be a step in the wrong direction". I do not agree with this submission.

What are the alternatives? Law faculties across this nation could continue to spew out their 100-250 graduates a year.

Those students could continue to compete for the increasingly fewer open positions in the marketplace, leading to the various problems that Mr. Roher outlines in his article.

However, it is more likely that our various provincial Bar Associations will soon act to protect the integrity of our profession (that is, to keep legal fees high), and begin to limit access to the market themselves. They will artificially raise standards for the Bar exams to choke off the never-ending supply of future lawyers pouring out from the law faculties. We may be left with the situation where law student X could spend three or four years at a law school (and large amounts of money and bypassed opportunities), only to find that he is all dressed up with a degree, but has nothing to do with it!

Is this scenario so much better than the one restricting the number of first year students in Canadian law faculties? And what is so bad about this limiting process? If there are actually too many lawyers out there for society's good why should we not decide, in a planned and rational manner, that our nation will produce fewer lawyers (and perhaps more engineers or computer scientists). Our heavily government-subsidized universities could simply be instructed to halve their first year law classes for the next few years, if they were not willing to take this necessary and responsible action voluntarily.

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RISK

Cont'd from p. 1

Professor Risk then went on to describe the rise of regulatory bodies in England beginning in 1903 with the formation of the Railway Board. Regulation, he said, was originally greeted sympathetically by lawyers. But as the degree of regulation grew, lawyers recognized a fundamental challenge to their own power, the powers of their corporate clients and the powers of the courts. Baron Hewart, in The New Despotism, attacks the rise of regulation as a plot by the bureaucracy to escape the control of the courts. Others, more ominously, saw the country turning from "our England of Old" into "an unhappy Russia". While the English developments were occurring, Willis published a book, while at Harvard, which responded to Baron Hewart's thesis. "Unfortunately", Professor Risk commented, "it was virtually ignored and fell somewhere in the middle of the Atlantic". American students were not interested in English problems and the English were not familiar with American writing. Willis' book expressed his approval of the rise of the regulated state and its developing bureaucracy.

Prof. Risk went on to articulate Willis' attack on traditional ways of thinking about the common law. Willis had little patience with the abstract concepts of the law which lawyers claimed as their domain. Law was to be understood through its policy decisions. Courts were concerned with expediency, and not logic. Professor Risk considered Willis' "functional approach" as an original contribution to Canadian legal history.

Statutory Interpretation in a Nutshell was Willis' most well-known and perhaps most subversive book. Though this book originated as a course summary for summer students, it was written for lawyers -- a strange form for a challenge to the profession. Willis argued that one should not concentrate on traditional rules as they do not determine results. Rather, one should examine the values rooted in the court system. In Professor Risk's view, the greatest challenge to the traditional view was not a judicial neglect of the rule of precedent, but that judgements reflected societal and class values.

Concluding his talk, Professor Risk thanked Forum National for having allowed him to speak in the field of legal history. He commented that having spent so long in the wilderness, John Willis would have been glad to be here too.

SKI WEEKEND

If skiing is your thing and you want a chance to get away from it all after the December exams, why not go on the ski trip with the Faculty of Law? Described by Vincent Gallo as the "major event of the year", this trip to Sugarloaf, Vermont is an excellent opportunity to share experiences with old friends and an even better one to form new and lasting relationships.

We will be leaving for "the Loaf" on January 1st at 11:00 a.m. and returning on the eve of the 6th. The price is \$194. U.S.. This price includes: return transportation via luxury coach cruiser (washroom equipped); 5 nights in the Birchwood or Mountainside condominiums -- each unit

has 3-5 bedrooms, living-room with fireplace, dining area and fully equipped kitchen; 5-day ski lift pass to ski Sugarloaf, including gondolas; and a welcoming beer bash, tax and tips.

All skiers are strongly urged to quickly reserve their places for this fantastic voyage. Deadline is November 15.

For reservations and more information contact Taras Kulish at 683-9735 or drop by the information table in "the Pit" on Mondays, Wednesday, and Thursday from 12:00 noon to 2:00 p.m.

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things did not grow on him in proportion. Goossen has, in short, a brain-sized problem.

One final point, gentle Editor. Jake slanders both the old Dean and the new Dean in suggesting that they exchange wardrobes. He also grossly misinforms the public when he takes exception to Brierley's glasses on the not so thinly veiled grounds that they make Brierley look like a nerd. Such a suggestion is as insulting as it is inaccurate. Brierley now has new and stylish aviator glasses which simply serve to underline our former Dean's fine sense of taste. And if Macdonald needs glasses, he hasn't made this public, so any offhand suggestion that he start wearing horn-rims is unappreciated.

I therefore ask in all due moderation that Goossen be expelled. If not expelled, at least he should be forced to sit through a videotape of the Toronto sesquicentennial celebrations to see that even the Queen takes Toronto seriously.

Love, Richard Janda

DES

Cont'd

victims until October, 1983, when Harriet Simand appeared on a segment of W5 relating to the consequences of DES. Since then, Health and Welfare has provided funding for DES Action.

Subsequent to the W5 broadcast the Ontario government has established a registry in Ontario to educate doctors on DES and how to perform DES exams, and has encouraged doctors to seek out DES patients.

Litigation involving the manufacturers of DES and the DES victims has been virtually non-existent in Canada and the United States. The primary reasons for this are that DES was marketed under 30 different brand names. It made it difficult for DES victims to instigate lawsuits because they could not identify a particular company as being responsible. Attempts to sue the companies collectively have been unsuccessful except in two American states. Secondly, the proof of exposure to DES rested in personal medical files, and more often than not, these files have been difficult to find due to the long period of time involved, in some cases as much as thirty years. More recent medical files have mysteriously disappeared. Relevant sections of more recent medical files have vanished because the hospitals and physicians feared prosecution. Other files have disappeared completely.

Christina Christophe, a member of DES Action, did research last summer on the accessibility of patients to their medical files

across Canada and came up with some astonishing results. Seven of the ten provinces have no legislation which requires physicians to keep medical records; only Quebec, Ontario, and British Columbia have such legislation. Most provinces have legislation requiring hospitals and pharmacies to keep medical records for a specific length of time. However, none of the legislation clearly states how one is to proceed to obtain access to one's medical files, short of a court injunction.

Harriet Simand stressed that physicians and hospitals must be convinced of the fallacy that they will be prosecuted for having distributed DES to their patients, because between 1941 and 1971 DES was a legal drug. Once they have recognized this and once the public has been sufficiently informed about DES, then the effects of DES may be dealt with more expeditiously.

Ms. Simand emphasized that the government should "spot check" on the pharmaceutical companies more often, rather than rely on their good faith, in the hope that a similar problem with another drug will not occur.

Persons who suspect that they have been exposed to DES should contact their physician or DES Action as soon as possible.

Quotable Quote

"M.S., Ms (Mizz) I'm told it's pronounced Mizz. As in miserable."

Michel Charbonneau
Oct. 16, 1984

Legal Information Network



Conference Update

by Holly Collen
Community Affairs Committee

With less than a month left until the Montreal Conference on Community Legal Self-Help, all early plans have been executed. Invitational leaflets have been sent out to cover 300 community groups in the Montreal area. Our present objectives involve planning the conference workshops and compiling the final guest list.

The leaflet includes our new logo which, we believe, reflects the nature of the conference-people and the legal system working together. As responses come in, we will be needing people to answer phone calls about the conference, and to be contacts with groups attending the conference.

In terms of planning workshops, student animators are in the process of setting up the program with the professional animators. One of these animators,

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LETTERS

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Classroom Racism?

On Thursday, October 18, in the course of his lecture, a sessional lecturer made a racist joke.

The class laughed.

The joke was made as an anecdote about flea-bitten hotels in his discussion of s.7 of the Trademarks Act and the Motel Six Inc. case. He recounted a personal experience of booking a room in a cheap motel, his anticipation of how sleazy it would be and how his suspicions were confirmed. "As I drove up to the motel, the drunken Indian fell out the door!"

The joke itself is not worthy of comment. What is disturbing about this incident is that a large majority of my fellow students found the joke in good taste and very funny.

In retrospect I can only wonder how my classmates would have responded if the punch line had been "...and a drunken black fell out!" A shocked silence, I presume. Hopefully, some students would protest. Alternatively, if a lecturer making a similar joke had said, "...and the hotel was full of Jews!" the response from a good proportion of the class would be outrage at being personally insulted. Why, in this case did those same students laugh? Because there were no Native People in the class?

Without wishing to appear self-righteous I think it necessary to register my own disgust. Alcoholism is a disease; if native people

are disproportionately afflicted by it, then it is a tragedy, not a joke. Do we need to be reminded, as white immigrants to North America, that we bear a large responsibility for the tragedy?

I have become resigned to the innate conservatism and the general parochial outlook of the typical McGill law student. However, until recently, I assumed that most of my comrades, who so pride themselves in belonging to an intellectual élite; who delight in the idle cerebrations over the Charter of Rights and Freedoms, who care about the right to die in an "Official Language" and who question the constitutionality of enforcing the use of metric units on petrol pumps, would not be ignorant, insensitive boors.

Face it: these are people who laugh at racist jokes. **Carl Mortished**

BCL III

Response to 'GOOSE'

One hesitates to question the high standards of judgment and discretion which have always been so much a hallmark of your paper and its official style guide. But having given the matter the minimum requisite thought, I have come to the conclusion that I am outraged by some of the remarks which besmirched page 7 of last week's issue.

Richard Jake Goossen had the audacity to deny the moral worth of anyone coming from Toronto. Let me come out of the closet. I am from Toronto. What

upsets me is that Goossen committed the cardinal sin of generalizing on the basis of his exposure to me. Other people have lived in Toronto (Professors Blaine Baker, Peter Benson and Stephen Perry being among the most illustrious) and surely Goossen cannot be suggesting that their lives are complete ciphers, devoid of the slightest hint of meaning, and generally boring enough to make a gathering of the Westmount Knitting Circle seem... well, lively.

But even if Goossen is thick-headed enough to restrict his vision of the world to the few students he bumps up against as he wades through the halls of our blessed barn, what about Danny Gogek? Gogek is from Toronto; and what a picture of refined enthusiasm, delicate rusticity, and untapped intelligence he presents. Surely one sole Gogek is sufficient to redeem Toronto from the satanically harsh indictment spewed out by Goossen. Professor Klinck has been brave enough to defend life in Alberta. The time has come for Torontonians to raise their heads and adopt Undershaft's motto: Unashamed.

And who is this creature Goossen to talk? Emitted as he was in some British Columbian backwater, he should scarcely have the nerve to admit his existence. Those people out there are fond of boasting about their mountains. Oh we have mountains in Toronto too. But the people are bigger. People get smaller as they moved in a westward direction, as was scientifically documented by Captain Lemuel Gulliver in his well-known Treatise. As Goossen moved out here,

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Class Meeting

To All LLB II Glitterati:

You are invited to attend a meeting of our illustrious class to discuss such topical items as co-ed washrooms in Old CDH, putting a metro station in the pit (when & if the strike ends), and negotiating world peace with the Dalai Lama.

This important event should not be missed!! Be there at 1:00 p.m., Thursday, October 25, Room 202.

Class Pictures

BCL/LLB IV Pictures

Time is running out for getting your pictures taken! Please go down to Van Dyck studios as soon as possible. The more people that are in the composite the better the picture will be for all of us. For less than the price of a case-book you can have a permanent reminder of the wonderful years spent at McGill!

roher

Cont'd from p. 4

Mr. Roher points out that this would limit access to our law schools for people who wish to study the law. But, is it not true that today, at McGill for example, we accept 150 out of over a thousand applicants each year. This amounts to denying 90% of applicants entry to this school.

The reality is that there is presently limited access to Canadian law schools. If postponing a further limiting process (basically so that our faculties can protect their

current operating funds) will lead to scores of unemployed law school graduates in the near future, isn't it time that we did something about it right now?

By leaving this type of decision up to the law schools or Bar societies we are guaranteeing that they will act to protect their vested interests. This type of self-interested decision-making, with the absence of any coordinated, long-term planning, will inevitably lead to hardship for the only party without any real say in the matter; the law student.

Leonard Abramowicz

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Gail Dykstra of the Canadian Law Information Council (CLIC) met with the committee last week to discuss the conference, CLIC has provided advice and resources for the conference from its earliest stages. Other groups which have supported the conference, financially or otherwise are Alliance Quebec, the Quebec Department of Justice, Justice Canada, Chambre des Notaires du Quebec, McGill Faculty of Law, McGill Law Students Association, and the McGill Graduates Society.

Soon, the final preparations for the conference day itself will be made. A number of people will be needed, but these jobs will only involve work on the day of the conference itself. For the workshops we will need people to record resolutions and proposals. We will also require people to register delegates, act as hosts or guides, supervise displays, set up the conference equipment and materials. Anyone interested in becoming involved with this conference, or having any

information on it, should get in touch with Todd Sloan, Bettina Karpel, or Holly Cullen, or leave a message at the LSA.

Grey Doorknob

Cont'd from p. 2

intellectually deficient, it was scary to speak with people who actually believed the Klan propaganda. Natural justice was served, however, as their capes tended to get caught up in the machinery.

Lastly, there could be a role for small-time corporate finance lawyers. There was a pop machine at the factory. It was an old machine. It took 25¢ for each pop. Pop now costs more. The machine still took only 25¢. The worker who owned the machine (no relation to old Herbert Bundy) wasn't making much money. He did a foolish thing. A very foolish thing.

He sold the machine.

All of it. The worker who bought the machine did a smart thing. He paid a man -- a very nice man -- to fix the old machine. The machine now takes 60¢ per pop. The worker is happy. Very happy. And very rich.

Worker Number One needed legal advice. I told him about Contracts. Lord Denning. Business Associations. And Corporate Finance. He felt stupid and I felt smart. I have a client for life.

As you can see, the start of a fruitful and interesting legal career doesn't necessarily start with getting your foot through the door with the brass handle. Look for the orange steel door with the greasy grey doorknob.

Rick Goossen